

THE DAILY NEWS.

RALEIGH, N. C.

SUNDAY, JULY 25, 1880.

To Our City Subscribers.

Mr. T. L. BRATHAM has been placed in charge of the subscription list and delivery of the papers in Raleigh, and will attend to the charge of collecting for the same. Every subscriber will have the paper delivered before 7 o'clock each morning.

The Weather Yesterday.

Taken from W. H. & R. S. TUCKER'S registered thermometer, Saturday, July 24, 1880:
6 o'clock, a. m., 73; 3 o'clock, p. m., 73;
8 o'clock, a. m., 74; 6 o'clock, p. m., 72.

The Weather To-Day.

WASHINGTON, D. C., July 24.—The indications for the Middle and South Atlantic States are as follows: Partly cloudy weather with occasional rain, southerly winds, stationary or higher temperature, nearly stationary barometer.

Index to New Advertisements.

General—Osborn's Feed Store.
Traveling Agents—Thomas Badger, Raleigh Passenger Agent.

City and County Items.

See fourth page.

The weather is delightful.

There was only one marriage license issued yesterday.

The members of the Raleigh Gun Club are practicing daily in preparation for Hendersonville.

Several of the younger grass widowers in this city have written their better halves to come home.

It rained so fast yesterday morning that the pavement at Battle & Mordecai's corner was submerged. Inadequate drainage.

We learn from C. M. Edwards, enumerator, that the population of Cedar Fork township is 1,715. It was previously given at 1,679.

We return thanks for an invitation to the Floral Fair Hop at Crowder's Hall, Wadesboro, on the 28th, and also to a Masonic dinner near Auburn on the 29th.

Messrs. Tucker keep everything in their line, but anybody who expects us to air our ignorance of dry goods by trying to tell what they keep, don't know half how smart we are.

Dr. Blackall says that the singing snake has been killed by some naughty boys. Why don't somebody of the Sunday-school boys strike up, "Don't kill the snakes, the pretty snakes, that sing around your door."

DEPARTMENT NOTES.—

Old bonds to the tune of \$7,000 were exchanged yesterday. The rush was probably caused by the weather—all anxious to be taken out of the wet.

North Carolina State Life Insurance Co. paid tax on premiums yesterday. The Agricultural Insurance Co. of Watertown, N. Y. also paid \$41.75 tax.

Licenses were issued yesterday to Jacob Olsen, of Petersburg, Va., and George P. Thomas & Co., of Baltimore, Md., to show the people of North Carolina how much better it will be to spend their money outside of the State.

BOILER EXPLOSION.—We learn that Mr. David Moore, near Goldsboro, was killed on Friday evening by the explosion of a boiler.

MAYOR'S COURT.—The only delinquent asked for 12 hours to abate the nuisance with which he was charged; which was granted and he moved on.

JUSTICE'S COURT.—Justice Barbee had two cases before him yesterday, but they were not the sort that look well in print, and of no public interest, anyhow.

HUMPHREY DECLINES.—It is understood that Col. Humphrey will not serve on the Republican Campaign Committee. He didn't like the style of his colleagues.

THE MERCHANTS' MERRY-MAKING.—The merchants and grocers' excursion to Banfor left yesterday, all hands healed for a good time and just the crowd to have it.

REDUCED RATES.—The Raleigh & Gaston R. R. Co. have reduced the fare from Raleigh to Baltimore and return to \$14 instead of \$15, as published in yesterday's News. Tickets good until Nov. 1st.

THAT CURSED COW.—We are informed that the train on the Charlotte and Atlanta Air Line struck that cow that is always fooling around trains, on Friday night, and the engine and mail car were thrown off the track. The engineer broke his arm and the train missed connection. We didn't hear what became of the cow.

COTTON RECEIPTS.—The following are the receipts of cotton for the week ending on Saturday, as furnished by Mr. Alf. A. Thompson, Secretary of the Exchange:

Receipts for the week, 305

same week last year, 28

Receipts to date, 50,492

same date last year, 46,139

Receipts to date, 4,353

REVENUE RECEIPTS.—The following are the receipts of internal revenue for the week ending yesterday:

Monday, \$ 540.92

Tuesday, 300.99

Wednesday, 2,370.57

Thursday, 648.39

Friday, 5,485.80

Saturday, 472.14

Total, \$9,818.81

HENDERSONVILLE.—The Raleigh Gun Club will leave on Monday night for Hendersonville to participate in the great glass ball match to be held there on the 28th. This club is the only one entered from this State and consequently a great deal of interest is manifested as to the success of our boys. There will be about have to contend against some crack clubs, but we know whatever club beats them will have to do some very fine shooting. Go it boys, we will dig down deep for the best shilling to put up on you.

CHURCH NOTICES.—Services at the different churches of the city will be held to-day as follows:

First Baptist.—Preaching at 11 a. m. by C. S. Farris, and at 8 p. m. by Rev. C. T. Bailey. Sunday-school at 9 a. m.

Edenton Street Methodist.—Services at 11 a. m. and at night at 8 p. m. Rev. W. S. Black, officiating. Sunday-school at 9 a. m.

Second Baptist Church.—Services at 11 a. m. by Rev. C. T. Bailey, and at 7:30 p. m. by Rev. H. Hatcher. Sunday-school at 9 a. m.

Church of the Good Shepherd.—In the absence of the rector, there will be no services at this church to-day. Sunday-school at the usual hour, 9:30 o'clock.

Christ Church.—There will be no services at this church to-day. Sunday-school at 4 p. m.

Person Street Methodist.—Services at 11 a. m. and at 8 p. m. by Rev. Mr. Smith. Sunday-school at 9 a. m.

First Presbyterian Church.—Services at 11 a. m. and 8 p. m. in the lecture room, by the pastor, Rev. J. S. Watkins.

It is thought best to have no service to-day in the Second Presbyterian Church, as the point on the pews may not be perfectly hard and dry. Services may be expected on Sunday next, of which more particular notice will be given.

SIXTEEN PAIR OF TWINS.—Iredell county is doubling its population faster than any county in the State, and Davidson township laughs at all the other townships in Iredell. Its population has increased in the last decade from 1,540 to 2,294. One way in which this increase can be accounted for is on the ground of twins. There are 16 pairs of these interesting specimens, says a correspondent, that have been confessed to, and there are many other suspicious looking youngsters. Town-ship can now find other prolific sources for our increase in population than an accusation that our enumerators are counting in all the names on tombstones. It may be added that the men and women of Davidson township are as thrifty and industrious as any people that have ever been lied about.

GONE OVER TO THE MAJORITY.—Mortuary report for week ending Saturday evening at sunset, July 24th, 1880.

July 17th, Drusilla Forsythe, 2nd Ward, Raleigh, white, age 14 years, typhoid fever.

July 19th, Peter R. Hines, 1st Ward, Raleigh, white, age.

July 20th, Lou Mullen, 4th Ward, Raleigh, white, aged 46 years, general dropsy.

July 21st, Mark M. Williams, 2nd Ward, Raleigh, white, age 85 years, senile decay.

The case marked 1 is not filled out, because the certificate was not handed in. It will be properly filled out and incorporated in the monthly report. The health of the city is very good.

CITY MARKETS.—Vegetables are all plentiful, especially cabbages, which are quoted at 5/15 cents each; potatoes, new Irish, 40 cents per peck; onions, 35 cents per peck; green corn, 15/25 cents per dozen; beets, 10 cents per dozen; egg-plants, 10 cents each; watermelons, 1/20 cents each; canteloupes, 2/10 cents each; cucumbers, 15/20 cents per dozen; butter, good country, scarce at 30 cents; eggs abundant at 12/15 cents per dozen; there have been at least 5,000 dozen eggs shipped to Raleigh during the week; peaches, 25/40 cents per peck; apples, 20 cents per peck; pears, 25/40 cents per peck; huckleberries, 10 cents per quart; grapes, 10 cents per pound; chickens, 8/20 cents each; squash 20 cents per dozen.

WATER-WORKS.—We are glad to be able to say that some of the gentlemen in town have begun to move in this direction. Yesterday while passing the corner of Jones and Wilmington streets we noticed a dam, well constructed, and already more than half full of water. While we congratulate the builder on his enterprise in endeavoring to supply a long felt want, we are sorry to add that certain sounds in the neighborhood indicated that he had been recalled by the home government and spanked for carrying the materials, consisting chiefly of sand, in his hat.

THE DEEMS FUND.—It will be remembered that Rev. Dr. Charles F. Deems, last fall, devoted a sum of money to the University of North Carolina, to be loaned needy students to enable them to finish their education. On his return from Europe and Asia he sent \$200 more. It is his grateful acknowledgment of the Divine Providence which has brought him safely home. It is exceedingly pleasant to see our distinguished friend, who so long resided among us, thus remembering the institution in which he was once a professor, and helping the poor young men of the State.

THE NORTH CAROLINA INDUSTRIAL ASSOCIATION.—The committee appointed by this body will call on the citizens of Raleigh to-morrow for donations of money and such other aid as they may desire to give to the colored fair.

We hope that they will meet with a liberal response. The object could hardly be better: for the surest way to make the colored man a useful citizen is to aid his efforts to raise his own self-respect. The colored fair is such an effort and deserves every encouragement. The committee consists of John O'Kelly, B. J. Edwards, Jr., Norfleet Jeffreys, Wash. Hayes.

THE SMILER'S LITTLE SMILE.

The smiler has the sweetest smile

A candidate e'er did wear,

And, like a Judge's salary,

It runs from year to year.

It put him on the bench one day,

Which was against the rule;

It made the lawyers awful mad

To see a Judge a—

So the Convention named him

Candidate for Governor,

But still he waited patiently

For \$2500 per year.

And when it they offered him

He smiled a smile quite stolid,

As if he said I'm not afraid

Now you have made me solid.

What makes the Judge smile on so?

The eager voters cry,

Because he wants your smile, you know,

Is the uniform reply.

Democratic Organization.

TOWNSHIP REPRESENTATION.

ROOMS OF THE

DEM. CENTRAL EX. COMMITTEE,

RALEIGH, July 24, 1880.

As the basis of representation in County Conventions is deemed to be too high, this committee does hereby amend section 6, of "Plan of Organization," dated July 2, 1880, so as to make it read as follows:

"Each township shall be entitled to cast in the County Convention one vote for every twenty-five Democratic votes, and one vote for fractions of fifteen Democratic votes cast by that township at the last preceding election for Governor; provided, that every township shall be entitled to cast at least one vote."

This amendment is not intended to affect, in any way, the supplement to "Plan of Organization," adopted by this committee on the 12th day of July, 1880.

By order of the committee.

OCTAVIUS COKE,

J. J. LITCHFORD, Chairman.

Secretary.

SUPREME COURT.—Court opened yesterday morning at 10 o'clock. All the Justices were present.

The consideration of appeals from the Sixth Judicial District was resumed, and cases were disposed of as follows:

First National Bank of Charlotte vs. R. B. Alexander et al. Appeals by both plaintiff and defendant; from Mecklenburg; argued by Bynum & Grier for plaintiff, and Shipp & Bailey and Clem. Dowd for defendants.

Elizabeth McLeary vs. R. M. Norment et al. From Mecklenburg; argued by Clem. Dowd (by brief), Wilson & Son, A. Burwell (by brief), and Shipp & Bailey for the plaintiff, and Bynum & Grier and Jones & Johnston for the defendants.

W. S. Brown and wife vs. T. S. Cooper, from Mecklenburg; continued by consent.

Robert Simpson et al. vs. Commissioners of Mecklenburg county, from Mecklenburg; argued on the 19th instant; motion made to dismiss, and cause continued on the motion without prejudice.

Court adjourned until 10 o'clock to-morrow (Monday) morning, when appeals from the Seventh Judicial District will be called.

PERSONALS:—

Miss Mamie D. Lewis has returned from Louisville. She received the first paid telegram sent over the new line from Franklin to Louisville.

Mr. Thomas H. Battle, of Chapel Hill, is in town. Mr. Battle divided the first honors of his class this year with Mr. Ernest Haywood, of this city.

Mr. J. E. Pogue, of Henderson, is at the Yarrowburgh. He says that preparations are going on for a "way up" picnic and ball on the 5th of August. It is bound to be a pleasant affair, for the Henderson boys don't have any other kind.

Governor and Mrs. Jarvis left yesterday for Beaufort.

Col. C. B. Watson, of Forsyth, is in the city, stopping at the Yarrowburgh.

Col. John S. Henderson, of Salisbury, Senator from Rowan, is in town.

THE REVOLVING ANNIHILATOR.—Some enterprising yankee has patented an invention which bids fair to make an immense change in the equipment of armies. It is doubtless well known, especially to those who have always been engaged in peaceful pursuits, that recent improvements in fire-arms, and the introduction of breech-loading and repeating rifles, have necessitated a vast increase in the quantity of ammunition carried with an army, and that the transportation of this ammunition is one of the most difficult problems of the art of war.

The invention alluded to, known as "Tappert's Patent Revolving Annihilator and Military Economizer," saves this expense by utilizing the projectiles of the enemy. The idea is simplicity itself. A number of tubes are secured in openings in a horizontal shaft, and at different angles, so that the end view of the whole arrangement shall present the appearance of the spokes of a wheel, the shaft being the hub. The shaft is caused to revolve by nigger-power, or any other convenient means. When a battle opens these machines are placed in line, the shafts horizontal and parallel to the line of the enemy, and the projectiles of the latter caught in the revolving tubes. The angular velocity is so regulated that a projectile continuing its flight shall emerge from the tube just as the revolution is completed, thus causing it to return to the point from which it was originally fired, and showing the enemy how it feels to be "hoist by his own petard."

The velocity of the projectiles caught varies with the distance from the enemy. On the other hand the interval spent in the tube must be constant, in order that the projectile may leave the tube just as a revolution is completed. This is effected by the simple lubricating or shortening of the tube, by sliding it in or out. The velocity of a projectile varies at different points of its course; hence to insure its emerging at the proper time an eccentric motion must be given to the tube. This is done by having a cross-eyed nigger to turn the crank. Cavillers have objected that if both parties be provided with these weapons nobody would be hurt. Such persons ignore the fact that the tendency of all improvements in the weapons of war is to decrease the percentage of killed. The great objection to military glory has hitherto been that it was hard to get without getting hurt. This great invention does away with such drawbacks, and will, when better known, enable even "James Garfield" to gather the barn-full of genuine laurels which he missed, somehow, during the late war.

In the engagement at Verdugo, between the Chilian and Peruvian forces, both parties were armed with the Annihilator and Economizer. The scene of action was a plain. The combatants spent four days and nights in flank movements and counter-maneuvres, each endeavoring to gain such a position that his own line should be parallel to the enemy's, while that of the enemy should not be parallel to his own. It is evident that the party attaining this object would be able to use its Annihilators, while its enemies would not get that advantage. The masterly strategy of the Chilian General in first advancing and then refusing his left wing, was only frustrated by the coolness of the Peruvian commander (due in some degree, no doubt, to the situation of his headquarters on the summit of Cotopaxi), who first refused and then advanced his right.

The Chilian finally withdrew to Solpata, where the Government presented him with seven copper mines and a gold-plated iron-clad, as a reward for his brilliant victory; and the Peruvian executed a retrograde movement to El Inferno, where he is now waiting for the usual semi-monthly revolution, when he will doubtless be made President, as a mark of the people's gratitude.

What was the Credit Mobilier?

[From the New York Sun, 23rd.]

Several correspondents, among them an esteemed clergyman in a neighboring town of New Jersey, have requested us to answer this question. They understand the relations of Mr. Garfield to the Credit Mobilier; the broad relations of the Credit Mobilier to Congress and to the people are less clear to their minds.

A few years ago the United States endowed magnificently with its lands and bonds, and many valuable privileges, a company organized to build the Union Pacific Railway. When certain shrewd managers of this concern came to count up the cost of the work and to cast up the assets to be applied to it, they found an enormous balance on the right side of the book. In order to absorb this balance and transfer it to their own pockets, they immediately proceeded to form an inside ring to build the road. They bought an old Pennsylvania charter called the Credit Mobilier, which was admirably adapted for the swindle in view, and under that charter name began the execution of one of the most remarkable and successful frauds in history.

As officers of the Union Pacific, the members of the Credit Mobilier contracted with themselves for the construction of the line, and fixed their own figures for the work. They then stripped the Union Pacific of everything of value belonging to it, and set it over to the Credit Mobilier. With one hand they robbed the treasury of the railway company, and with the other they stuffed the plunder into the treasury of the construction ring, whence it was distributed to the individual conspirators in the form of dividends of cash, bonds and stocks.

But the United States, in slight return for its unexampled bounty, had taken a first mortgage on the property. This was inconvenient to the ring. Having absorbed everything else, they now desired to put a first mortgage on the road, and take the bonds of that also. But that could be done only by getting rid of the first mortgage of the United States; that, again, could be effected only by act of Congress. To simple-minded and honest men this would seem like a very difficult thing to accomplish; to them it appeared easy enough. They set apart a certain amount of the enormously valuable stock of the Credit Mobilier—stock which represented both the plunder of the past and the plunder of the future—and gave it to Oakes Ames, who agreed to "place it where it would do the most good." He was a member of Congress, and was not unjustly supposed to know exactly how to employ it in order to corrupt the sources of legislation. With this corruption fund he bought the Vice-President, several Senators, and the Chairman of the leading committees of the House. Then, by the votes and influence of these men the desired legislation was had, and a new field of pillage was laid open to the ring, in which the Government and the stockholders of the Union Pacific were equal sufferers.

It was not possible that a series of transactions at once so colossal and so infamous could be concealed forever. There came a day when the Sun spread this iniquity before its readers in almost every detail. It was the most shocking revelation of official venality and corruption ever made in the whole course of our history. Investigation followed, and the guilt of the accused members was clearly ascertained. With a few exceptions, they added the crime of perjury in their testimony before the committee to the crime of bribery.

Among others, James A. Garfield was bribed; swore that he had not been bribed; was convicted of bribery and perjury by the testimony of Ames and by documentary evidence of conclusive character; and the committee, composed of members of his own party, reported him as a bribe-taker and a perjurer.

GENERAL NEWS ITEMS:—

Rhode Island is the first State to send to the census bureau a complete statement of population. The whole number is 276,710, a gain of 59,309.

The Democratic Campaign in Indiana will be opened on the 14th of August, on which day public meetings will be held in every county in the State. The Democratic State committee has decided to depend mostly upon its local speakers, which includes, it is claimed, at least one hundred first-class stumpers.

Private letters received at Washington from Texas say that the greenback managers have made a proposition to the Republican leaders there to support the greenback Presidential ticket, affirming that they will do so the State can be carried by Weaver, and thus the Democrats will be deprived of the election vote of Texas, and the election of Garfield will be made more certain.

There are 64 cities in the United States with a population exceeding 30,000; there are 44 cities with more than 40,000; 34 with more than 50,000; 27 with more than 60,000; 24 with more than 75,000; 20 with more than 100,000; 4 with more than 500,000; and 1 with more than 1,000,000. London is a long way ahead of New-York, but the other English cities fall below the American cities.

A party of about 700 immigrants who were converted by Mormon missionaries in Europe arrived in New York City on Wednesday in charge of an elder, and started Thursday for Utah by the Pennsylvania railroad. The party is composed principally of Swedes, Norwegians and Danes. There were a few Englishmen and Englishwomen. Upon their arrival at Salt Lake City they will be taken care of by the community until they find a place to establish themselves.

A droll fellow fished a rich old gentleman out of a millpond, and refused the offer of twenty-five cents from the rescued miser. "Oh, that's too much!" exclaimed he; "that's worth it!" and he handed back twenty-one cents, saying calmly, as he pocketed four cents, "That's about right."

GARFIELD AND THE COURT.

Judge Swayne Denies.

[Special to N. Y. Tribune, 23d.]

SHARON SPRINGS, July 21.—On Monday, July 19, the New York World published a special dispatch from Washington, announcing that in 1875 Justice Swayne, of the United States Supreme Court, rendered an opinion in the case of Clutten against McCellan and others, in which he declared that General Garfield was guilty of a sale of official influence in connection with the De Golyer contract. The World dispatch said that the case in which this opinion was rendered was tried in Cook County, Ill., in May, 1875, and was decided on appeal in October, 1879, in the United States Supreme Court, and the following paragraph is stated to be the words of Justice Swayne:

"The agreement with General Garfield, a member of Congress, to pay him \$5,000 as a contingent fee for procuring a contract which was itself made to depend upon a future appropriation by Congress—which appropriation could only come from a committee of which he was the chairman—was a sale of official influence, which no veil can cover, against the plainest principles of public policy. No counselor-at-law while holding high office has a right to put himself in a position of temptation, and under pretence of making a legal argument exert his official influence upon public officers dependent upon his future action. Certainly the courts of justice will never lend themselves to enforce contracts obtained by such influence."

Justice Swayne is now here at Sharon Springs, and he has just given the following explicit and absolute denial to the above campaign lie. He says:—

"So far as I am concerned there is an entire misstatement. I never wrote a word of what is attributed to me with quotation marks. I never knew anything of the facts of the matter charged against General Garfield, and it was certainly never in any shape before the Supreme Court. I had, therefore, neither occasion nor opportunity to express any judicial opinion upon the subject. It is not stated where any case in which General Garfield was concerned is reported. My confident impression is that I never heard of such a case before. General Garfield is a personal friend of mine, and I have the highest confidence in his integrity. The statements in the World are an entire fabrication and without a particle of truth in them."

In order that there might be no possible mistake in reporting his words, Justice Swayne himself wrote out the above denial.

[J. R. Doolittle in Chicago Times.]

A serious error has been made by some newspapers in supposing that the De Golyer case ever went to the Supreme Court, or that Justice Swayne used the language attributed to him in commenting upon it. In the brief submitted to Judge Farwell, in the Circuit Court here, another case, Burke vs. Child, decided in the Supreme Court, was cited, and Justice Swayne's opinion stated. But the mistake has been this: That a part of the language of the brief which follows the citation of the case of Burke vs. Child is attributed to Justice Swayne—language which he never used, for the case was never before him. As I was the counsel who submitted the brief, it is just to General Garfield, to Justice Swayne and to myself that I should at once correct this mistake.

[From the Philadelphia Record.]

The facts in connection with the De Golyer case, so far as General Garfield is concerned, have never been determined in a suit at law. During the flush times at Washington, when the Shepherd Ring was managing the affairs of the District, De Golyer secured a contract to put down a quantity of patent pavement, the payment of which was made dependent on appropriations by Congress. General Garfield was chairman of the Committee on Appropriations. The sum of \$5,000 was paid by De Golyer to General Garfield, nominally for his services as attorney, though he never did anything but speak to Shepherd upon the subject. Thereafter the appropriations desired were made. The profits of the job were \$400,000. The facts in regard to the payment to Garfield were disclosed in a suit brought in Chicago by George R. Clutten against De Golyer & McCellan for a share of the profits. Clutten, in the capacity of a lobbyist at Washington, had secured the contracts and the assistance of Garfield. In defending themselves against the claim of Clutten the defendants' counsel, ex-Senator Doolittle, put in the plea that "the agreement with General Garfield, a member of Congress, to pay him \$5,000 as a contingent fee for procuring a contract which was itself made to depend upon a future appropriation by Congress, which appropriation could only come from the committee of which he was the chairman, was a sale of influence which no veil can cover, against the plainest principles of public policy." In support of his plea he quoted a decision of Justice Swayne in an analogous case, thus leading to the careless or malicious error which has found its way into Democratic journals. The Republican press, however, guiltily suppresses the remaining facts in the case. In the Chicago Court the plea of corruption was deemed a sufficient one. The Court refused to put its seal on the contract of the lobbyist. The case was appealed to the Supreme Court of Illinois, and the finding of the lower Court approved. It thus appears that while the stigma upon Garfield's transaction in the De Golyer case has not been deepened by a decision of Justice Swayne in the United States Supreme Court, it nevertheless remains.

WAIFS:—

Affectionate mother (to her son)—

"Why do you cry, Johnny? What has hurt you?" Johnny (crying more lustily than before)—

"Because I fell down and hurt myself yesterday." Mother—"Yesterday! Then why do you cry to-day?" Johnny (bawling at the top of his voice)—

"Oh, 'cause you weren't home yesterday."

"No, Samuel," calmly replied Mrs. Bartlett, in answer to his furious and sarcastic questions, "no. It isn't because there's no gray cloth in Burlington that I patched your Summer trousers with seal-brown basket cloth, but I'm going to break you of your loathsome habit of going in your shirt sleeves during business hours or I'll make you the laughing stock of the town."

A NOVEL SUIT.

A doctor named Royston had sued Peter Bennett for his bills long overdue, for attending the wife of the latter. Alexander H. Stephens was on the Bennett side, and Robert Toombs, then Senator of the United States, was for Dr. Royston. The doctor proved the number of his visits, their value according to the local custom, and his authority to do medical practice. Mr. Stephens told his client that the physician had made out his case, and,

